



Reprinted  
February 5, 2004

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## HOUSE BILL No. 1059

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DIGEST OF HB 1059 (Updated February 4, 2004 11:58 pm - DI 75)

**Citations Affected:** IC 3-6.

**Synopsis:** Indiana election commission membership. Provides for a fifth member of the Indiana election commission who acts as the commission's chair. Provides that the chair is a nonvoting member of the commission unless the voting members of the commission are evenly divided on a question before the commission.

**Effective:** Upon passage.

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### Stilwell

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January 13, 2004, read first time and referred to Committee on Elections and Apportionment.  
January 29, 2004, amended, reported — Do Pass.  
February 4, 2004, read second time, amended, ordered engrossed.

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HB 1059—LS 6699/DI 75+



Reprinted  
February 5, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1059

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 3-6-4.1-0.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "nominating**  
4 **organization" refers to either of the following:**

5           **(1) Common Cause of Indiana.**

6           **(2) The League of Women Voters of Indiana.**

7       SECTION 2. IC 3-6-4.1-2 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The  
9 commission consists of **the following members:**

10           **(1) The commission's chair appointed by the governor as**  
11 **provided in section 6 of this chapter.**

12           **(2) Four (4) other individuals appointed by the governor as**  
13 **provided in section 4 of this chapter.**

14           (b) Each member of the commission must be a registered voter.

15           (c) Each member of the commission **appointed under subsection**  
16 **(a)(2)** must be a member of a major political party of the state. Not  
17 more than two (2) members of the commission **appointed under**

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1 **subsection (a)(2)** may be a member of the same political party.

2 SECTION 3. IC 3-6-4.1-4 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **This section**  
4 **applies only to a commission member described in section 2(a)(2)**  
5 **of this chapter.**

6 (b) Before May 1 of a year that the term of a member of the  
7 commission expires, the state chairman of the major political party of  
8 the state represented by that member may nominate, in writing, two (2)  
9 individuals of the state chairman's own political party to succeed the  
10 member whose term will expire.

11 ~~(b)~~ (c) The state chairman of a political party may nominate the  
12 individual whose term will expire that year to serve a new term.

13 ~~(c)~~ (d) If the state chairman makes the nominations before May 1,  
14 the governor shall appoint one (1) of the nominees to the commission.

15 ~~(d)~~ (e) If the state chairman fails to make the nominations before  
16 May 1, the governor shall, within another ten (10) days, appoint a  
17 member of the same political party as the state chairman. The state  
18 chairman may disapprove the selection by notifying the governor  
19 within seven (7) days after receiving notice of the governor's  
20 appointment.

21 ~~(e)~~ (f) If the state chairman disapproves the selection within the  
22 seven (7) day period under subsection ~~(d)~~, (e), the governor shall make  
23 another appointment under subsection ~~(d)~~ (e) that is also subject to the  
24 disapproval of the state chairman under subsection ~~(d)~~, (e).

25 ~~(f)~~ (g) If the state chairman does not disapprove an appointment  
26 under subsection ~~(d)~~ (e) within the seven (7) day period, the individual  
27 appointed by the governor is a member of the commission.

28 SECTION 4. IC 3-6-4.1-5 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **This section**  
30 **applies only to a commission member described in section 2(a)(2)**  
31 **of this chapter.**

32 (b) If a member of the commission resigns, dies, or becomes unable  
33 to serve on the commission, the governor shall notify the state  
34 chairman of the major political party of the state represented by the  
35 member.

36 ~~(b)~~ (c) The state chairman may nominate in writing, within ten (10)  
37 days after notice of the vacancy, two (2) individuals of the state  
38 chairman's own political party to succeed the member. If the state  
39 chairman makes the nominations within ten (10) days, the governor  
40 shall appoint one (1) of the nominees to the commission.

41 ~~(c)~~ (d) If the state chairman fails to make the nominations within ten  
42 (10) days, the governor shall, within another ten (10) days, appoint a

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member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(d)~~ (e) If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(c)~~; (d), the governor shall make another appointment under subsection ~~(c)~~ (d) that is also subject to the disapproval of the state chairman under subsection ~~(c)~~; (d).

~~(c)~~ (f) If the state chairman does not disapprove an appointment under subsection ~~(c)~~ (d) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 5. IC 3-6-4.1-6, AS AMENDED BY P.L.122-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The governor shall appoint ~~one (1)~~ of the members of the commission **an individual from among those nominated by the nominating organizations** to be the commission's chair, and ~~one (1)~~ of the members of the commission to be the vice chair of the commission. The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

**Each nominating organization may nominate one (1) individual to be the commission's chair.**

(b) If the commission's chair resigns, dies, or becomes unable to serve on the commission, the governor shall notify each nominating organization. **Each nominating organization may nominate one (1) individual to be the commission's chair. The governor shall appoint an individual from among those nominated by the nominating organizations to fill the vacancy for the remainder of the unexpired term of the chair.**

(c) Except as provided in section 7 of this chapter, the chair is a **nonvoting member of the commission.**

SECTION 6. IC 3-6-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Three (3) **voting** members of the commission constitute a quorum.

(b) Except as otherwise provided in this title, the affirmative vote of at least three (3) **voting** members of the commission is necessary for the commission to take official action other than to meet to take testimony.

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1 (c) If commission members are evenly divided on any matter  
2 before the commission, the chair shall cast the deciding vote.

3 (d) Whenever this title requires the unanimous vote of the entire  
4 membership of the commission to take action on a matter before  
5 the commission, the commission's chair may not vote on the  
6 matter.

7 SECTION 7. IC 3-6-4.1-8 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **This section**  
9 **applies only to a commission member described in section 2(a)(2)**  
10 **of this chapter.**

11 (b) A member of the commission may designate another individual  
12 to serve as a proxy of record in the member's place as a member of the  
13 commission by filing a written instrument designating the proxy of  
14 record with the election division. The proxy of record has the same  
15 authority to act and vote on all matters as does the member. The  
16 member may revoke the authority of the proxy of record at any time.  
17 The authority of the proxy of record may be either limited or general  
18 with regard to duration or subject matter as set forth by the member in  
19 the written instrument designating the proxy.

20 ~~(b)~~ (c) If both the member and the member's proxy of record are  
21 unavailable, the member may designate another individual in writing  
22 to serve as an alternate proxy in the member's place as a member of the  
23 commission. This designation must be filed with the election division  
24 before taking effect. The alternate proxy has the same authority to act  
25 and vote on all matters as does the member. The member may revoke  
26 the authority of the alternate proxy at any time. The authority of the  
27 alternate proxy may be either limited or general with regard to duration  
28 or subject matter as set forth by the member in the written instrument  
29 designating the proxy.

30 SECTION 8. IC 3-6-4.1-10 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the chair for  
32 any reason fails to call a meeting of the commission, then

33 ~~(1) the vice chair, with the written approval of the remaining two~~  
34 ~~(2) commission members, may convene a meeting of the~~  
35 ~~commission; and~~

36 ~~(2) the any~~ three (3) members of the commission may meet to  
37 execute the powers and perform the duties of the commission.

38 SECTION 9. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 1. IC 3-6-4.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of **the following members:**

**(1) The commission's chair appointed by the governor as provided in section 6 of this chapter.**

**(2) Four (4) other individuals appointed by the governor as provided in section 4 of this chapter.**

(b) Each member of the commission must be a registered voter.

(c) Each member of the commission **appointed under subsection (a)(2)** must be a member of a major political party of the state. Not more than two (2) members of the commission **appointed under subsection (a)(2)** may be a member of the same political party.

SECTION 2. IC 3-6-4.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

**(b)** Before May 1 of a year that the term of a member of the commission expires, the state chairman of the major political party of the state represented by that member may nominate, in writing, two (2) individuals of the state chairman's own political party to succeed the member whose term will expire.

~~(b)~~ **(c)** The state chairman of a political party may nominate the individual whose term will expire that year to serve a new term.

~~(c)~~ **(d)** If the state chairman makes the nominations before May 1, the governor shall appoint one (1) of the nominees to the commission.

~~(d)~~ **(e)** If the state chairman fails to make the nominations before May 1, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(e)~~ **(f)** If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(d)~~, **(e)**, the governor shall make another appointment under subsection ~~(d)~~ **(e)** that is also subject to the disapproval of the state chairman under subsection ~~(d)~~, **(e)**.

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~~(f)~~ (g) If the state chairman does not disapprove an appointment under subsection ~~(d)~~ (e) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 3. IC 3-6-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

(b) If a member of the commission resigns, dies, or becomes unable to serve on the commission, the governor shall notify the state chairman of the major political party of the state represented by the member.

~~(b)~~ (c) The state chairman may nominate in writing, within ten (10) days after notice of the vacancy, two (2) individuals of the state chairman's own political party to succeed the member. If the state chairman makes the nominations within ten (10) days, the governor shall appoint one (1) of the nominees to the commission.

~~(c)~~ (d) If the state chairman fails to make the nominations within ten (10) days, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(d)~~ (e) If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(c)~~ (d), the governor shall make another appointment under subsection ~~(c)~~ (d) that is also subject to the disapproval of the state chairman under subsection ~~(c)~~ (d).

~~(e)~~ (f) If the state chairman does not disapprove an appointment under subsection ~~(c)~~ (d) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 4. IC 3-6-4.1-6, AS AMENDED BY P.L.122-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The governor shall appoint ~~one (1) of the members of the commission~~ **an individual nominated by Common Cause of Indiana** to be the **commission's** chair. ~~and one (1) of the members of the commission to be the vice chair of the commission. The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.~~

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

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(b) If the commission's chair resigns, dies, or becomes unable to serve on the commission, the governor shall notify Common Cause of Indiana. The governor shall appoint the individual nominated by Common Cause of Indiana to fill the vacancy for the remainder of the unexpired term of the chair.

(c) Except as provided in section 7 of this chapter, the chair is a nonvoting member of the commission.

SECTION 5. IC 3-6-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Three (3) **voting** members of the commission constitute a quorum.

(b) Except as otherwise provided in this title, the affirmative vote of at least three (3) **voting** members of the commission is necessary for the commission to take official action other than to meet to take testimony.

(c) If commission members are evenly divided on any matter before the commission, the chair shall cast the deciding vote.

(d) Whenever this title requires the unanimous vote of the entire membership of the commission to take action on a matter before the commission, the commission's chair may not vote on the matter.

SECTION 6. IC 3-6-4.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

(b) A member of the commission may designate another individual to serve as a proxy of record in the member's place as a member of the commission by filing a written instrument designating the proxy of record with the election division. The proxy of record has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the proxy of record at any time. The authority of the proxy of record may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

~~(b)~~ (c) If both the member and the member's proxy of record are unavailable, the member may designate another individual in writing to serve as an alternate proxy in the member's place as a member of the commission. This designation must be filed with the election division before taking effect. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument

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designating the proxy.

SECTION 7. IC 3-6-4.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the chair for any reason fails to call a meeting of the commission, then

~~(1) the vice chair, with the written approval of the remaining two~~  
~~(2) commission members, may convene a meeting of the~~  
~~commission; and~~

~~(2) the~~ any three (3) members of the commission may meet to execute the powers and perform the duties of the commission.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1059 as introduced.)

MAHERN, Chair

Committee Vote: yeas 7, nays 5.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1059 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-6-4.1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "nominating organization" refers to either of the following:**

**(1) Common Cause of Indiana.**

**(2) The League of Women Voters of Indiana."**

Page 3, line 9, after "individual" insert "**from among those**".

Page 3, line 10, delete "Common Cause of Indiana" and insert "**the nominating organizations**".

Page 3, between lines 18 and 19, begin a new line blocked left and insert: "**Each nominating organization may nominate one (1) individual to be the commission's chair.**".

Page 3, line 20, delete "Common Cause" and insert "**each nominating organization. Each nominating organization may nominate one (1) individual to be the commission's chair.**".

Page 3, line 21, delete "of Indiana."

Page 3, line 21, delete "the" and insert "**an**".

Page 3, line 21, after "individual" insert "**from among those**".

Page 3, line 22, delete "Common Cause of Indiana" and insert "**the nominating organizations**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1059 as printed January 30, 2004.)

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